

AMENDED IN ASSEMBLY JUNE 13, 2006

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE APRIL 26, 2005

AMENDED IN SENATE APRIL 13, 2005

SENATE BILL

No. 762

Introduced by Senator Lowenthal

February 22, 2005

~~An act to add Chapter 9.9 (commencing with Section 44299.88) to Part 5 of Division 26 of the Health and Safety Code, relating to air pollution. An act to add Part 3 (commencing with Section 2000) to Division 6 of the Harbors and Navigation Code, relating to ports.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 762, as amended, Lowenthal. ~~Vehicular sources: California Intermodal Port Congestion and Environmental Quality. Ports: regulation.~~

Existing law authorizes certain port and harbor districts to exercise specified authority over ports within their jurisdiction.

This bill would authorize a harbor agency, as defined, in furtherance of its proprietary business activities, to establish standards for intermodal trucking within its jurisdiction, for specified purposes, including to promote air quality and to protect public health and safety and homeland security. The bill would authorize a harbor agency, in exercising that authority, to establish, either by ordinance or contractual agreement, a permit system to authorize drivers and motor carriers to enter the port for purposes of pick up and delivery of intermodal freight, and to exclude drivers and motor carriers operating without a permit, as specified.

The bill would authorize a harbor agency to require a motor carrier, a terminal operator, or any other person or entity conducting business within the harbor agency's jurisdiction, to show proof of compliance with state and federal law, concerning issues of safety, security, and lawful business practices, as specified. The bill would authorize a harbor agency that determines that one of those persons or entities has not complied with one of those requirements of state or federal law, to terminate any lease, contract, permit, or grant of authority of the noncomplying party to do business in the port, entered into or renewed on or after January 1, 2007, or to place conditions or restrictions on that party necessary to bring that party into compliance with state or federal law, permit conditions, or specified regulations.

~~(1) Existing law requires each marine terminal in the state to operate in a manner that does not cause the engines on trucks to idle for more than 30 minutes while waiting to load or unload at the terminal.~~

~~This bill would establish the Los Angeles-Long Beach Area Regional Intermodal Port Congestion and Environmental Quality Commission (LAIPC) and the Oakland Area Regional Intermodal Port Congestion and Environmental Quality Commission (OAIPC).~~

~~This bill would require the LAIPC and OAIPC to perform specified functions, including, but not limited to, granting to each motor carrier a port permit for authority to enter a specific port for pick up or delivery of intermodal freight for its truck fleet on the basis of a combined score, and determining the number of intermodal trucks needed to efficiently move intermodal freight from marine terminals to the first point of delivery, unloading, or interchange. The bill would require the LAIPC and OAIPC to determine the application of existing truck engine emission standards as a requirement for a permit, and would require each motor carrier issued a port permit to pay an annual fee, set by the LAIPC and OAIPC at an amount that does not exceed the actual costs of the respective commission. The bill would permit the LAIPC and OAIPC to establish rules and regulations relating to port permits. The bill would require the LAIPC and OAIPC to use funds generated by fees to reimburse the General Fund for any potential startup costs incurred. This bill would also make certain legislative findings and declarations relating to air pollution in port areas.~~

~~This bill would make certain findings and declarations regarding the inapplicability of a general statute without the meaning of Section 16 of Article IV of the California Constitution.~~

~~This bill would impose a state-mandated local program by imposing additional duties on specific air quality management districts and certain other local governmental entities.~~

~~(2)The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~no.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*
3 (a) *International trade through the ports of California is one*
4 *of the most rapidly growing sectors of the economy, and is vital*
5 *to the safety, security, and well being of the state's citizens.*
6 (b) *The volume of freight moving through California's ports is*
7 *growing very rapidly.*
8 (c) *Since the devastating terrorist attacks of September 11,*
9 *2001, it has been a primary goal of both the state and federal*
10 *governments to strengthen homeland security, including port and*
11 *maritime security.*
12 (d) *Motor carriers and other businesses whose employees and*
13 *agents are entering and leaving port property are required to*
14 *meet all security standards established pursuant to state and*
15 *federal law, and ports should have maximum legal authority to*
16 *insure that the highest security standards are met.*
17 (e) *Air pollution in California is an ongoing problem that*
18 *impacts the health and safety of the state's residents.*
19 (f) *California ocean marine terminals are congested with long*
20 *lines, forcing trucks to idle for extended periods of time. Idling*
21 *trucks emit air contaminants, including oxides of nitrogen,*
22 *carbon dioxide, and particulate matter. The lines of idling trucks*
23 *at the ports are so long that many drivers wait upwards of four*

1 hours before receiving a load, causing excess diesel emissions
2 and impeding the efficient movement of goods.

3 (g) The truck fleet servicing our ports is predominantly
4 composed of old vehicles that contain engines that are exempt
5 from current emission standards. The air contaminants emitted
6 from these trucks significantly increases pollution and
7 dramatically reduces air quality in the area in and around the
8 ports.

9 (h) In addition to the degradation of air quality standards,
10 increasing freight volumes causes traffic congestion on roads
11 and freeways that are located near ports, resulting in traffic
12 gridlock.

13 (i) Ports should exercise full authority to insure that the
14 intermodal transportation system can accommodate rapidly
15 increasing freight volumes without sacrificing economic
16 efficiency, air quality and public health standards, and port
17 security.

18 (j) Current law grants ports broad authority to regulate
19 economic activity that takes place on their land and affects their
20 business operations.

21 (k) It is the Legislature's intent to reaffirm and strengthen the
22 ability of the ports of this state to govern business activities on
23 their property to insure that those activities are conducted under
24 conditions that will meet the highest standards of maritime and
25 transportation security, air quality and public health,
26 transportation safety, and the efficient and sustainable movement
27 of goods in international, interstate, and intrastate commerce.

28 SEC. 2. Part 3 (commencing with Section 2000) is added to
29 Division 6 of the Harbors and Navigation Code, to read:

30
31 **PART 3. PORT REGULATION**
32

33 2000. For the purposes of this part, "harbor agency" has the
34 same meaning as that term is defined in Section 1694.

35 2001. (a) A harbor agency, in furtherance of its proprietary
36 business activities, may establish standards for intermodal
37 trucking within its jurisdiction in order to promote air quality;
38 protect public health and safety and homeland security; ensure
39 adequate land transportation capacity; provide for the efficient
40 movement of goods across harbor agency property; establish

1 *conditions necessary to sustain the economic vitality of the*
2 *intermodal trucking system servicing the ports of this state; and*
3 *encourage the development of a stable, well trained, and fully*
4 *qualified pool of truck drivers to move goods in and out of ports.*

5 *(b) In exercising the authority provided for in subdivision (a),*
6 *a harbor agency may establish, either by ordinance or*
7 *contractual agreement, a permit system to authorize drivers and*
8 *motor carriers to enter the port for purposes of pick up and*
9 *delivery of intermodal freight, and to exclude drivers and motor*
10 *carriers operating without a permit. The harbor agency may*
11 *establish permit conditions that it deems necessary to effectuate*
12 *the purposes of this section.*

13 *(c) A harbor agency may require a motor carrier, a terminal*
14 *operator, or any other person or entity conducting business*
15 *within the harbor agency's jurisdiction, to show proof of*
16 *compliance with state and federal law, concerning issues of*
17 *safety, security, and lawful business practices, including, but not*
18 *limited to, all of the following:*

19 *(1) Requirements concerning commercial driver's licensing*
20 *and endorsements.*

21 *(2) Requirements concerning commercial vehicle equipment,*
22 *safety, and registration.*

23 *(3) Motor carrier permits and insurance.*

24 *(4) Labor laws.*

25 *(5) Controlled substances and alcohol testing of commercial*
26 *drivers.*

27 *(6) Criminal background checks.*

28 *(7) The Transportation Worker Identification Credential*
29 *Program administered by the federal Transportation Security*
30 *Administration, and other maritime security requirements.*

31 *(8) Air quality emission standards.*

32 *(d) If a harbor agency determines that a motor carrier, a*
33 *terminal operator, or any other person or entity conducting*
34 *business within the harbor agency's jurisdiction has not*
35 *complied with a requirement of state or federal law described in*
36 *subdivision (c), the harbor agency may terminate any lease,*
37 *contract, permit, or grant of authority of the noncomplying party*
38 *to do business in the port, entered into or renewed on or after*
39 *January 1, 2007, or place conditions or restrictions on that party*
40 *necessary to bring that party into compliance with state or*

1 *federal law, permit conditions, or regulations enacted pursuant*
2 *to this section.*
3 *(e) Districts may act jointly to effectuate the purposes of this*
4 *section.*

5
6
7 **All matter omitted in this version of the bill**
8 **appears in the bill as amended in Senate,**
9 **May 27, 2005 (JR11)**
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